

BOARD OF ADJUSTMENTS MEETING MINUTES
Monday, September 14, 2015
6:00 pm

Members Present: Betty Hall, Jimmy Lemons, Tad Martin, Philip Morgan, Don Waugh, Herman Johnson, Sandra Masho (late arrival)

Members Absent: Laurie Jarrett

Others Present: Jeff Earp, Town Manager
Melanie Eveker, Town Clerk
Charlie Davis, Town Attorney
Gill Frazier, Town Attorney

Business Meeting

Call to Order – Chairman Johnson called the meeting to order at 6:00 pm.

Approval of Previous Meeting's minutes – November 17, 2014 – Tad Martin made a motion to accept the minutes. The motion passed 6-0.

Old Business - There was no old business.

6:02 pm Sandra Masho enters meeting.

Public Hearings:

6:03 pm

Chairman Johnson opened a public hearing regarding a request from Marion L. Garner for a Special Use Permit for a Daycare/Afterschool program facility at 1003 W Main Street (Building/Suite A-11 & A-12) (Tax Map 13-10-44) Haw River, NC. No members of the public chose to speak. Chairman Johnson closed the public hearing at 6:04 pm.

6:05 pm

Chairman Johnson opened a public hearing regarding a request from Ed Powers for a Special Use Permit for a Carnival Operation on property located off of West Main Street. The property, Village Marketplace of Haw River, is located on West Main Street, Haw River, Tax Map #13-10-44. Chairman Johnson asked Police Chief Neal Dickens if police protection had been arranged for. Chief Dickens responded that the Carnival hires off duty police officers and adequate coverage has been arranged. No members of the public chose to speak. Chairman Johnson closed the public hearing at 6:06 pm.

New Business:

6:08 pm

The Board received a request from Marion L. Garner for a Special Use Permit for a Daycare/Afterschool program facility at 1003 W Main Street (Building/Suite A-1 & A-12) (Tax Map 13-10-44) Haw River, NC. Town Attorney Gill Frazier then swore in Ms. Garner and Town Manager Earp in order to allow them to give testimony. One facility located at 1003 West Main Street will be used for the care of children 3-5 years of age and the other will be for children 6-12 years old. The preschool facility (3-5 yr old) will be in operation during the day and the school age children (6-12 yr old) facility will be used for the sole purpose of afterschool care. Food will be catered from an outside facility. The owner of the business currently operates a similar child care center in Burlington. The public hearing for the issuance of the special use permit has been advertised for and held September 14, 2015.

Chairman Johnson then asked the following questions and received the noted answers in regards to the requested Special Use Permit:

QUESTIONS ON THE SIX REQUIRED SPECIAL USE PERMIT APPLICATION FINDINGS PURSUANT TO SECTION 155.083 (Day Care Center)

1. In what zoning district is the proposed special use to be located? - B-2
2. What activities will be carried out on the premises? - Daycare/afterschool care
3. Are the proposed activities allowed in this zoning district? - Yes
4. What is the lot size for the property on which the proposed special use will be located? - Approximately 2700 square feet
5. Is the proposed special use going to be located at least two hundred feet away from any junkyard, outdoor storage facility, scrapyards or salvage yard? (*NOTE TO BOARD: The Zoning Code at 155.086 does not per se require day care centers to observe this distance requirement, but it does require junkyards, outdoor storage facilities, scrapyards and salvage yards to be located at least 200 feet away from daycare centers.*) - No
6. What buildings/structures are or will be located on the real property upon which the special use will be located? – Brick and mortar commercial building
7. What is/will be the size of those buildings/structures in square feet? – Approximately 2700 square feet

8. What type of structures will these be? (Accessory buildings? Multi-family, single family homes? Mobile homes?) – Commercial Building
9. Will this building be capable of passing a yearly fire inspection? - Yes
10. How many children are going to be cared for at this facility? – Final number will be determined by the state licensing agency. Approximately 25-30 children.
11. Will this daycare center be operated as a home occupation? - No
12. If it is going to be operated as a home occupation, is it located in a residence that is the personal residence of the operator of the daycare facility? (*NOTE TO COUNCIL: The Zoning Code at 155.086 requires that daycare centers operated as home occupations be located in the owner's actual dwelling house*). – N/a
13. Out of the total project area, how much is going to be open space? – 200 square feet per child
14. Out of all that open space, how many square feet will be outdoor play areas? (*NOTE TO BOARD: The Zoning Code at 155.086 requires at least 200 square feet of outdoor play area space per child*). – 200 square feet per child
15. How much of that open space is covered by water? - None
16. What materials, if any, will be stored on the premises? – Daycare supplies and age appropriate education tools and toys
17. Where is the proposed location of any parking/loading areas? – Existing parking lot
18. Where are the proposed points of vehicle ingress and egress? – Hwy 70 and Stone Quarry Road
19. What is the proposed pattern of internal circulation, including all drives and walkways? - Circular
20. What provisions have been made or will be made for utilities? – Duke Energy for power and Haw River for water and sewer
21. What provisions have been made or will be made for refuse disposal? – Commercial waste contract

22. What provisions have been or will be made for lighting the property? – Existing lighting
23. What are the names, addresses and telephone numbers of the owners of the subject parcel?- Dave Morton, DM Morton Enterprises, LLC, PO Box 1220 Elon, NC 27244, 336-584-1233
24. Will there be any planting on the property? What plants will be planted and when?- No
25. Will any site grading be necessary? What provisions have been made or will be made for site grading? - No
26. Is there a possibility of soil erosion in conjunction with the proposed use? What provisions have been made or will be made to control soil erosion on the site? - No
27. If the proposed special use is a home occupation, what is the total floor area to be used for the proposed special use? - N/a
28. What signage, if any, will accompany the proposed special use? How big will the signs be? Where will they be located? – signage on the existing marquee and above the two commercial units
29. What are the potential hazards to public health and/or safety that accompany the proposed special use? – None known
30. What specific provisions have been made to alleviate those hazards? – N/a
31. What use is being made of each adjoining parcel of land? – Commercial property and retail operations
32. How can this proposed special use, if allowed, be expected to affect the value of each adjoining parcel of land?- no effect anticipated
33. What public necessity, if any, will be fulfilled or served by the proposed special use? – child care
34. What is the general character of the area in which the special use will be located? - commercial

Board Member Waugh presented the following motion:

BASED UPON THE EVIDENCE PRESENTED, and pursuant to the Town of Haw River Code of Ordinances Section 155.083, I move that the Board of Adjustment make the following **FINDINGS OF FACT** with regard to the special use permit application made by Marion Garner regarding the property located at 1003 West Main Street Tax Map 13-10-44 in Haw River, North Carolina:

1. That all applicable regulations of the zoning district in which the use is proposed are complied with;
2. That all applicable conditions specified in Section 155.086, Town of Haw River Code of Ordinances, are met for this proposed special use;
3. That the proposed special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted or as modified under the conditions required by the Town Council;
4. That the proposed use is located, designed and proposed to be operated so as to maintain or enhance the value of adjoining property or that the use is a public necessity;
5. That the location and character of the use if developed according to the plan as submitted or as modified under the conditions required by the Town Council will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town Planning Area; and
6. That satisfactory provision has been made for all of the following that apply in this case: vehicle circulation, parking and loading, service and loading entrances and areas, screening, utilities, signs, lighting, open spaces, site grading, soil erosion and sedimentation control and site damage.

AND, BASED UPON THE FOREGOING FINDINGS OF FACT, I move that the special use permit application made by Marion Garner regarding the property located at 1003 West Main Street Tax Map 13-10-44 in Haw River, NC be **APPROVED; Motion carried 7-0.**

Manager Earp reminded Ms. Garner that while her Special Use Permit has been approved, it will not be issued until after the 30 day appeals process has passed.

6:20 pm

The Board received a request from Ed Powers for a Special Use Permit for a Carnival Operation on property located off of West Main Street. The property, Village Marketplace of Haw River, is located on West Main Street, Haw River, Tax Map #13-10-44. The request is for carnival operation for October 15th through October 25, 2015. Town Attorney Gill Frazier then swore in Mr. Powers and Town Manager Earp in order to allow them to give testimony. The public hearing for the issuance of the special use permit has been advertised for and held September 14, 2015.

Chairman Johnson then asked the following questions and received the noted answers in regards to the requested Special Use Permit:

QUESTIONS ON THE SIX REQUIRED SPECIAL USE PERMIT APPLICATION FINDINGS PURSUANT TO SECTION 155.083 (Carnival)

1. In what zoning district is the proposed special use to be located? - B-2
2. What activities will be carried out on the premises? – Carnival operation
3. Are the proposed activities allowed in this zoning district? - Yes
4. Is there adequate off street parking and restroom facilities? – Yes, onsite parking and porta johns
5. What are the proposed dates for the carnival activity (cannot exceed thirty days)? – October 15th through October 25, 2015.
6. What is the lot size for the property on which the proposed special use will be located? – Approximately 3/10 acre
7. Is the proposed special use going to be located at least two hundred feet away from any junkyard, outdoor storage facility, scrapyard or salvage yard? (NOTE TO COUNCIL: The Zoning Code at 155.086 does not per se require day care centers to observe this distance requirement, but it does require junkyards, outdoor storage facilities, scrapyards and salvage yards to be located at least 200 feet away from daycare centers.) - Yes
8. What buildings/structures are or will be located on the real property upon which the special use will be located? – Rides, games, food trailers
9. What is/will be the size of those buildings/structures in square feet? – Varies depending on the size of the rides.

10. What type of structures will these be? (Accessory buildings? Multi-family, single family homes? Mobile homes?) – Mobile Entertainment
11. Will this building be capable of passing a fire inspection? - Yes
12. Out of the total project area, how much is going to be open space? – 50%
13. How much of that open space is covered by water? – None
14. What materials, if any, will be stored on the premises? - Rides
15. Where is the proposed location of any parking/loading areas? – Existing Lot
16. Where are the proposed points of vehicle ingress and egress? – Hwy 70 and Sone Quarry Road
17. What is the proposed pattern of internal circulation, including all drives and walkways? - Circular
18. What provisions have been made or will be made for utilities? – Generator power, Haw River water
19. What provisions have been made or will be made for refuse disposal? – Dumpster contract
20. What provisions have been or will be made for lighting the property? 0 Existing lighting, ride/game lights

21. What are the names, addresses and telephone numbers of the owners of the subject parcel? – David Morton, DM Morton Enterprises LLC, PO Box 1220 Elon, NC 27244, 336-584-1239.
22. Will there be any planting on the property? What plants will be planted and when? – No
23. Will any site grading be necessary? What provisions have been made or will be made for site grading? – No
24. Is there a possibility of soil erosion in conjunction with the proposed use? What provisions have been made or will be made to control soil erosion on the site? - No
25. If the proposed special use is a home occupation, what is the total floor area to be used for the proposed special use? -N/a
26. What signage, if any, will accompany the proposed special use? How big will the signs be? Where will they be located? – no special sign erections
27. What are the potential hazards to public health and/or safety that accompany the proposed special use? – behavior of attendees
28. What specific provisions have been made to alleviate those hazards? – off duty office will be working security
29. What use is being made of each adjoining parcel of land? - Commercial, retail
30. How can this proposed special use, if allowed, be expected to affect the value of each adjoining parcel of land? – No effect expected

31. What public necessity, if any, will be fulfilled or served by the proposed special use? - entertainment

32. What is the general character of the area in which the special use will be located? - Commercial

Board Member Lemons presented the following motion:

BASED UPON THE EVIDENCE PRESENTED, and pursuant to the Town of Haw River Code of Ordinances Section 155.083, I move that the Board of Adjustment make the following **FINDINGS OF FACT** with regard to the special use permit application made by Ed Powers regarding the property located at 1003 West Main Street Tax Map 13-10-44 in Haw River, North Carolina:

1. That all applicable regulations of the zoning district in which the use is proposed are complied with;
2. That all applicable conditions specified in Section 155.086, Town of Haw River Code of Ordinances, are met for this proposed special use;
3. That the proposed special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted or as modified under the conditions required by the Town Council;
4. That the proposed use is located, designed and proposed to be operated so as to maintain or enhance the value of adjoining property or that the use is a public necessity;
5. That the location and character of the use if developed according to the plan as submitted or as modified under the conditions required by the Town Council will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town Planning Area; and
6. That satisfactory provision has been made for all of the following that apply in this case: vehicle circulation, parking and loading, service and loading entrances and areas, screening, utilities, signs, lighting, open spaces, site grading, soil erosion and sedimentation control and site damage.

AND, BASED UPON THE FOREGOING FINDINGS OF FACT, I move that the special use permit application made by Ed Powers regarding the property located at 1003 West Main Street Tax Map 13-10-44 in Haw River, NC be **APPROVED**; **Motion carried 7/0**.

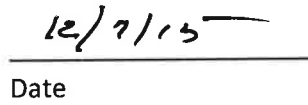
Manager Earp reminded Mr. Powers that while her Special Use Permit has been approved, it will not be issued until after the 30 day appeals process has passed.

Manager Earp then announced that the PTCOG is still working on the ordinance updates and they will be presented to the Board soon, though there will be no regular Planning & Zoning Board meeting this month.

Adjourn – 6:33 pm Board Member Lemons made a motion to adjourn. Motion carried 7-0.

A handwritten signature in cursive script, reading "Buddy E. Boggs", written over a horizontal line.

Haw River Board of Adjustments, Chairman

A handwritten date "12/7/15" written over a horizontal line.

Date